

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
MARHABA PARTNERS LIMITED	§	CASE NO. 10-30227
PARTNERSHIP,	§	(Chapter 11)
	§	
DEBTOR.	§	

**COMPASS BANK’S OBJECTION TO MARHABA PARTNERS LIMITED
PARTNERSHIP’S EXPEDITED MOTION FOR (i) APPROVAL OF SALE OF REAL
PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES UNDER 11 U.S.C. § 363(F); (ii) ORDER AUTHORIZING PAYMENT
OF CERTAIN CLOSING EXPENSES AND FEES, AND (iii) WAIVER OF 14 DAY STAY
OF FEDERAL RULE OF BANKRUPTCY PROCEDURE 6004(h)
(Refers to Docket No. 58)**

COMES NOW Compass Bank and files this its Objection to Marhaba Limited Partnership’s Expedited Motion for (i) Approval of Sale of Real Property Free and Clear of Liens, Claims, Interests and Encumbrances Under 11 U.S.C. § 363(F); (ii) Order Authorizing Payment of Certain Closing Expenses and Fees, and (iii) Waiver of 14 Day Stay of Federal Rule of Bankruptcy Procedure 6004(h) [Docket No. 59] (the “Motion”) and would show the Court as follows:

1. The allegations of paragraph 1 of the Motion do not require a response, but for pleading purposes the allegations are denied.
2. Compass Bank admits the allegations of paragraph 2, 3, 4 and 5 of the Motion.
3. Compass Bank lacks sufficient knowledge to enable it to admit or deny the allegations of paragraphs 6 and 7 of the Motion.
4. Compass Bank admits that it is owed \$22 million pursuant to the promissory note described in paragraph 8 and that the debt is secured by a lien on the Brookshire Trust among

other property. Except as admitted, Compass Bank lacks sufficient knowledge to admit or deny the remaining allegations of paragraph 8 of the Motion.

5. Compass Bank denies the allegations of paragraphs 9, 10 and 11 of the Motion.

6. Compass Bank objects to the sale of this proposed tract because it is not adequately described; it may adversely affect the marketability of the remaining tract of land; it is property along the frontage which is the most visible and therefore most valuable and important to the remaining land behind it.

7. The Debtor must carry its burden to prove that the secured creditors will be adequately protected and that the price is the highest price obtainable. In that connection, this Debtor has no plan other than to hope for an equity infusion, a buyer or a new lender.

8. The Court should not authorize the payment of any fees or taxes.

9. The Court should not waive the 14 day stay. The Debtor could easily have brought this matter to the attention of the Court in a timely fashion. The contract was signed on or about March 12 and 22, 2010, yet the pleading was not filed until April 19, 2010. This Court should not allow and reward the Debtor's dilatory practices at the expense of its creditors.

10. A sale under 363(f) may only occur if:

- a. Applicable non bankruptcy law permits the sale,
- b. Compass Bank consents,
- c. the sale generates more value than the aggregate of all liens,
- d. there is a bona fide dispute as to Compass Bank's lien, or
- e. Compass Bank could be compelled.

11 U.S.C. § 363 (f). The Debtor cannot carry its burden because the Deed of Trust specifically requires Compass Bank's consent for any sale of the Bank's collateral. *See* Deed of Trust ¶9.

Compass Bank does not consent to the sale. The value of the sale proceeds will be substantially less than the aggregate of all liens. There is no bona fide dispute as to Compass Bank's claim or lien. *See* Debtor's Schedule D [Docket No. 10]. Compass Bank cannot be compelled to accept a money satisfaction for the partial release.

WHEREFORE, PREMISES CONSIDERED, Compass Bank requests that Marhaba Partners Limited Partnership's Expedited Motion for (i) Approval of Sale of Real Property Free and Clear of Liens, Claims, Interests and Encumbrances Under 11 U.S.C. § 363(F); (ii) Order Authorizing Payment of Certain Closing Expenses and Fees, and (iii) Waiver of 14 Day Stay of Federal Rule of Bankruptcy Procedure 6004(h) be denied.

Respectfully submitted this 22nd day of April, 2010.

HIRSCH & WESTHEIMER, P.C.

By: /s/ Michael J. Durrschmidt
Michael J. Durrschmidt
Texas Bar No. 06287650
700 Louisiana, Floor 25
Houston, Texas 77002
Telephone: 713-220-9165
Facsimile: 713-223-9319
E-mail: mdurrschmidt@hirschwest.com

Counsel for Compass Bank

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of April, 2010, a copy of the foregoing Objection to Expedited Motion for (i) Approval of Sale of Real Property Free and Clear of Liens, Claims, Interests and Encumbrances Under 11 U.S.C. § 363(F); (ii) Order Authorizing Payment of Certain Closing Expenses and Fees, and (iii) Waiver of 14 Day Stay of Federal Rule of Bankruptcy Procedure 6004(h) was served via first class mail, postage prepaid, to the parties listed on the attached service or via the Clerk of the Court through ECF.

/s/ Michael J. Durrschmidt

Michael J. Durrschmidt

Service List

Marhaba Partners Limited Partnership
1499 Potomac
Houston, Texas 77057

Christine A March
Office of the US Trustee
515 Rusk, Suite 3516
Houston, Texas 77002

BBVA Compass Bank
c/o Hirsch & Westheimer, PC
700 Louisiana, Suite 2550
Houston, Texas 77002

City Bank
10080 Bellaire, Suite 101
Houston, Texas 77072

Lasco McCue, Ltd
3301 Edlow Street, Suite 100
Houston, Texas 77027

Taxease Funding LP
14901 Quorum Drive, Suite 900
Dallas, Texas 75254

A&S Engineers, Inc.
10377 Stella Link Rd
Houston, Texas 77025

Ambrose Appraisal
16545 Village Drive, Building A
Jersey Village, TX 77040

Jackson Walker LLP
1400 McKinney Street, Suite 1900
Houston, Texas 77010

Siemco Lawn
99 Island Bl
Missouri City, Texas 77459

Elizabeth Carol Freeman
Porter & Hedges, LLP
1000 Main Street, 36th Floor
Houston, Texas 77002

Bank of Houston
750 Bering Drive, Suite 100
Houston, Texas 77057

Central Bank
4605 Post Oak Drive, Suite 130
Houston, Texas 77027

Fortune Lending Corporation
4610 Riverstone Bl., Suite 100
Missouri City, TX 77459

Memorial Hermann Hospital
9401 Southwest Freeway, Suite 1120
Houston, Texas 77074

Trustmark National Bank
10497 Town & Country Way, Suite 860
Houston, Texas 77024

Allen Boone Humphries Robinson
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

Espey Consultants, Inc.
4801 Southwest Parkway
Parkway 2, Suite 150
Austin, Texas 78735

JAHO, Inc.
c/o Christian Smith & Jewell
2302 Fannin, Suite 500
Houston, Texas 77002

Terra Associates, Inc.
1445 N Loop West, Suite 450
Houston, Texas 77008

Terracon Consultants, Inc.
18001 W 106th Street, Suite 300
Olathe, KS 66061

Kurk T Nelson
McCormick Hancock & Newton
1900 West Loop South, Suite 700
Houston, Texas 77027

J Grady Randle
Randle Law Office Ltd.
820 Gessner, Suite 1570
Houston, Texas 77024

Howard Marc Spector
Spector & Johnson
12770 Coit Road, Suite 1100
Dallas, Texas 75251

Trustmark National Bank
c/o Donald Turbyfill
4801 Woodway, Suite 420 – West
Houston, Texas 77056

Tara L. Grundemeier
Linebarger Goggan Blair & Sampson
PO Box 3064
Houston, Texas 77253

Owen M Sonik
Perdue Brandon Fielder Collins & Mott
1235 North Loop West, Suite 600
Houston, Texas 77008

Lake Olympia Civic Association
c/o Sarah Vultaggio
9700 Richmond Avenue, No. 222
Houston, Texas 77042

Michael W Bishop
Looper Reed & McGraw, PC
1601 Elm Street, Suite 4600
Dallas, Texas 75201

William B Sing
Fulbright & Jaworski LLP
1301 McKinney, Suite 5100
Houston, Texas 77010

Kirk Guilanshah
Memorial Hermann Hospital
929 Gessner, Suite 2620
Houston, Texas 77024

Jim Hamilton
Ross Banks May Cron & Cavin
2 Riverway, Suite 700
Houston, Texas 77056

Melissa Haselden
Hoover Slovacek LLP
5847 San Felipe, Suite 2200
Houston, Texas 77057

David Langston
Mullin Hoard & Brown LLP
PO Box 2585
Lubbock, Texas 79408

Jay W Hurst
Assistant Attorney General
Bankruptcy & Collections Division
PO Box 12548
Austin, Texas 78711

American Express Bank, FSB
c/o Becket and Lee LLP
POB 3001
Malvern PA 19355 0701